

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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LEE HARTWELL,

Plaintiff,

v.

THE CITY OF MONTGOMERY,
ALABAMA, PERSONNEL BOARD
OF THE CITY AND COUNTY OF
MONTGOMERY, ALABAMA, AND
DISTRICT CHIEF KELLY D. GORDON,
IN HIS INDIVIDUAL CAPACITY,

Defendants.

CIVIL ACTION NO.
2:06-CV-518-MHT

DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

**RESPONSE TO MOTION OF DEFENDANT CITY-COUNTY OF MONTGOMERY
PERSONNEL BOARD TO SUPPLEMENT
SCHEDULING ORDER**

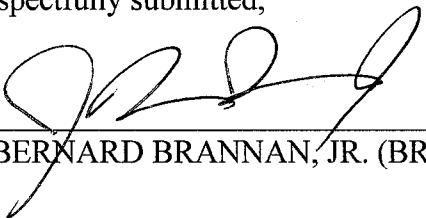
COMES NOW, the Plaintiff Lee Hartwell, and in response to the Defendant City-County of Montgomery Personnel Board's Motion to Supplement Scheduling Order, would set forth the following:

1. The Plaintiff filed this cause in the Circuit Court of Montgomery County, Alabama, and the Defendant, City of Montgomery, removed the case to the United States District Court for the Middle District of Alabama.
2. The Plaintiff amended his Complaint to add the Defendant, District Chief Kelly D. Gordon, in his individual capacity, pursuant to *Title 42, USC § 1983*.
3. The Plaintiff never sought a jury trial in this cause, confident that the matter could properly be tried before the trial court non-jury.
4. The Defendant City of Montgomery moved for the cause to be tried before a jury, and

the Plaintiff assumed such was on those issues so triable.

5. The Plaintiff is in agreement that the issue of the Writ of Certiorari to the City-County of Montgomery Personnel Board should be tried non-jury.
6. Plaintiff intended to present those matters necessary to resolve the Petition for Certiorari to the Court on the date this cause is set for trial. The Plaintiff would have no problem with an earlier submission, but due to the attorney for the Plaintiff's schedule and numerous other matters to be dealt with in other cases between this time and April 5th, the attorney would not have sufficient time to proceed on the Petition for Writ of Certiorari on April 5, 2007, but would need more time to prepare to present the Petition for Writ of Certiorari and argument thereon.

Respectfully submitted,



J. BERNARD BRANNAN, JR. (BRA022)

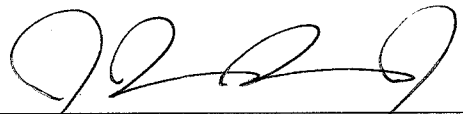
THE BRANNAN LAW FIRM, P.C.
602 South Hull Street
Montgomery, Alabama 36104
(334) 264-8118

CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2007, I filed the foregoing with the Clerk of the Court of Montgomery, Alabama, a copy of which was sent to the following by U.S. Mail:

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OF COUNSEL